

**JOHN D. SULLIVAN**  
**Assistant U.S. Attorney**  
**U.S. Attorney's Office**  
**James F. Battin U.S. Courthouse**  
**2601 Second Ave. North, Suite 3200**  
**Billings, MT 59101**  
**Phone: (406) 657-6101**  
**FAX: (406) 657-6989**  
**Email: John.Sullivan2@usdoj.gov**

**ATTORNEY FOR PLAINTIFF**  
**UNITED STATES OF AMERICA**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION**

---

<b>UNITED STATES OF AMERICA,</b>  <b>Plaintiff,</b>  <b>vs.</b>  <b>TERRY MALENE SEMINOLE,</b>  <b>Defendant.</b>	<b>CR 16-11-BLG-SPW</b>  <b>OFFER OF PROOF</b>
---	--

---

The United States, represented by Assistant U.S. Attorney John D. Sullivan, files the following offer of proof in anticipation of the change of plea hearing set in this case on April 8, 2016.

## **THE CHARGE**

The defendant, Terry Malene Seminole, is charged by indictment with one count of assault resulting in serious bodily injury, in violation of 18 U.S.C. §§ 1153(a) and 113(a)(6).

## **PLEA AGREEMENT**

There is no plea agreement in this case. The defendant has indicated that she will plead guilty to the indictment without the benefit of a written plea agreement. In the government's view, this is the most favorable resolution for the defendant.

*See Missouri v. Frye*, 132 S.Ct. 1399 (2012).

## **ELEMENTS OF THE CHARGE**

In order for Seminole to be found guilty of the charge of assault resulting in serious bodily injury, as charged in the indictment, the United States must prove each of the following elements beyond a reasonable doubt:

First, the defendant is an Indian person;

Second, that the crime occurred within the exterior boundaries of the Northern Cheyenne Indian Reservation;

Third, the defendant willfully and recklessly wounded P.N.W.; and

Fourth, as a result, P.N.W. suffered serious bodily injury.

## **PENALTY**

The charge of assault resulting in serious bodily injury carries a maximum punishment of ten years imprisonment, a \$250,000 fine, three years supervised release, and a \$100 special assessment.

## **ANTICIPATED EVIDENCE**

If this case were tried in United States District Court, the United States would prove the following:

On November 9, 2015, Terry Malene Seminole, J.T.S., P.N.W., and another individual departed Billings around 6:15 a.m. and drove to Busby, Montana. When the group arrived in Busby, they stopped at a residence where Seminole started consuming alcohol, eventually to the point of intoxication. Later that morning, Seminole left the residence in her Ford F-150 truck with J.T.S. and P.N.W. and began the trip to Lame Deer on Highway 212. A witness who was following Seminole's truck during this time described her driving as erratic, and P.N.W. stated that Seminole was driving "all curvy." At one point, Seminole drove off the road, down an embankment, and struck a tree.

As a result of the crash, Seminole, J.T.S., and P.N.W. all received medical treatment at IHS. J.T.S. suffered minor injuries and was released. Both Seminole and P.N.W. were transferred to St. Vincent's Hospital in Billings for

additional treatment. A blood draw was performed on Seminole during her treatment, which showed her blood alcohol content to be 0.131 well after the crash. P.N.W. suffered a spinal compression fracture during the crash and was hospitalized overnight.

During a non-custodial recorded interview on November 17, 2015, Seminole admitted to drinking and then driving the morning of the crash. The incident occurred within the exterior boundaries of the Northern Cheyenne Indian Reservation and Seminole is an enrolled member of the tribe.

DATED this 6th day of April, 2016.

MICHAEL W. COTTER  
United States Attorney

/s/ John D. Sullivan  
JOHN D. SULLIVAN  
Assistant U.S. Attorney